

Subpart—Melon Fruit Fly

SOURCE: 65 FR 8636, Feb. 22, 2000, unless otherwise noted.

§ 301.97 Restrictions on interstate movement of regulated articles.

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart.¹

[65 FR 8636, Feb. 22, 2000, as amended at 66 FR 21053, Apr. 27, 2001]

§ 301.97–1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture.

Certificate. A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of melon fruit fly and may be moved interstate to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with this subpart.

Departmental permit. A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes and that the regulated article is eligible for interstate movement in accordance with § 301.97–4(d) of this subpart.

Dripline. The line around the canopy of a plant.

Infestation. The presence of the melon fruit fly or the existence of circumstances that makes it reasonable

to believe that the melon fruit fly is present.

Inspector. Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Administrator to enforce this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector or person operating under a compliance agreement affirms that the regulated article identified on the document is eligible for interstate movement in accordance with § 301.97–5(b) of this subpart only to a specified destination and only in accordance with specified conditions.

Melon fruit fly. The insect known as the melon fruit fly, *Bactrocera cucurbitae* (Coquillett), in any stage of development.

Moved (move, movement). Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

Plant Protection and Quarantine. Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Quarantined area. Any State, or any portion of a State, listed in § 301.97–3(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.97–3(b) of this subpart.

Regulated article. Any article listed in § 301.97–2 or otherwise designated as a regulated article in accordance with § 301.97–2(e).

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.97–2 Regulated articles.

The following are regulated articles:

- (a) Melon fruit flies.²
- (b) The following fruits and vegetables:

²Permit and other requirements for the interstate movement of melon fruit flies are contained in part 330 of this chapter.

¹Any properly identified inspector is authorized to stop and inspect persons and means of conveyance and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

Apple (*Malus sylvestris*)
 Apple, custard (*Annona reticulata*)
 Avocado (*Persea americana*)
 Bean, hyacinth (*Dolichos lablab*)
 Bean, lima (*Phaseolus lunatus* = *Phaseolus limensis*)
 Bean, mung (*Phaseolus vulgaris*)
 Cantaloupe (*Cucumis melo* and *Cucumis melo* var. *Cantalupensis*)
 Cauliflower (*Brassica oleracea* var. *botrytis*)
 Chayote (*Sechium edule*)
 Colocynth (*Citrullus colocynthis*)
 Cowpea (*Vigna unguiculata*)
 Cucumber (*Cucumis sativus*)
 Cucumber, bur (*Sicyos* sp.)
 Cucurbit (*Cucumis pubescens* and *Cucumis trigonus*)
 Date palm (*Phoenix dactylifera*)
 Eggplant (*Solanum melongena*)
 Fig (*Ficus carica*)
 Gourds
 (*Coccinia* spp.)
 (*Crescentia* spp.)
 (*Lagenaria* spp.)
 (*Luffa* spp.)
 (*Momordica* spp.)
 (*Trichosanthis* spp.)
 Grape (*Vitis trifolia*)
 Guava (*Psidium guajava*)
 Guava, cattley (*Psidium cattleianum*)
 Lemon, water (*Passiflora laurifolia*)
 Mango (*Mangifera indica*)
 Melon (*Citrullus* spp.)
 Melon, Chinese (*Benincasa hispida*)
 Melon, oriental pickling (*Cucumis melo* var. *conomon*)
 Mustard, leaf (*Brassica juncea*)
 Okra (*Hibiscus esculentus*)
 Orange, king (*Citrus nobilis*)
 Orange, mandarin (*Citrus reticulata*)
 Orange, sweet (*Citrus sinensis*)
 Papaya (*Carica papaya*)
 Passion fruit (*Passiflora edulis*)
 Peach (*Prunus persica*)
 Pear (*Pyrus communis*)
 Pepper (*Capsicum annum*)
 Pepper, chile (*Capsicum annum*)
 Pepper, tobasco (*Capsicum frutescens*)
 Pumpkin (*Cucurbita pepo*)
 Pumpkin, Canada (*Cucurbita moschata*)
 Scarlet wisteria tree (*Sesbania grandiflora*)
 Soursop (*Annona muricata*)
 Squash (*Cucurbita maxima*)
 Tomato (*Lycopersicon esculentum*)
 Tomato, tree (*Cyphomandra betaceae*)
 Watermelon (*Citrullus lanatus* = *Citrullus vulgaris*)

Any fruits or vegetables that are canned or dried or frozen below -17.8 °C. (0 °F.) are not regulated articles.

(c) Soil within the dripline of plants that are producing or have produced the fruits or vegetables listed in paragraph (b) of this section.

(d) Plants of the following species in the family Cucurbitaceae:

Cantaloupe (*Cucumis melo*)
 Chayote (*Sechium edule*)
 Colocynth (*Citrullus colocynthis*)
 Cucumber (*Cucumis sativus*)
 Cucumber, bur (*Sicyos* sp.)
 Cucurbit, wild (*Cucumis trigonus*)
 Gherkin, West India (*Cucumis angaria*)
 Gourd, angled luffa (*Luffa acutangula*)
 Gourd, balsam apple (*Momordica balsamina*)
 Gourd, ivy (*Coccinia grandis*)
 Gourd, kakari (*Momordica dioica*)
 Gourd, serpent cucumber (*Trichosanthis anguina*)
 Gourd, snake (*Trichosanthis cucumeroides*)
 Gourd, sponge (*Luffa aegyptiaca*)
 Gourd, white flowered (*Lagenaria siceraria*)
 Melon, Chinese (*Benincasa hispida*)
 Melon, long (*Cucumis utilissimus*)
 Pumpkin (*Cucurbita pepo*)
 Pumpkin, Canada (*Cucurbita moschata*)
 Squash (*Cucurbita maxima*)
 Watermelon (*Citrullus lanatus* = *Citrullus vulgaris*)

(e) Any other product, article, or means of conveyance not listed in paragraphs (a) through (d) of this section that an inspector determines presents a risk of spreading the melon fruit fly, when the inspector notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

§ 301.97-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which the melon fruit fly has been found by an inspector, in which the Administrator has reason to believe that the melon fruit fly is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which the melon fruit fly has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will